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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,538	07/29/2003	Martin Phipps	1130-005	9251
21034	7590	08/23/2004	EXAMINER	
IPSOLON LLP 805 SW BROADWAY, #2740 PORTLAND, OR 97205			TSO, LAURA K	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,538

Applicant(s)

PHIPPS ET AL.

Examiner

laura tso

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 and 18-23 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 9, 11, 13 and 14 is/are rejected.
- 7) ☒ Claim(s) 4, 6-8, 10 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 9, 11, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klaitman (6,502,957).

Klaitman discloses a light comprising a body [120] having a hollow core holding a power source [power cord: column 4, line 39], a plurality of elongated flexible branches [212] attached at a first end to the body and spaced around the periphery of deck [110],

illuminating means [216] mounted to the second end of the branch, an electrical circuit [inherent] and a switch [plugging and unplugging the cord].

Klaitman does not disclose that the switch configured for multiple illumination settings. It is old and well known in the art to use ON/OFF switches on illumination devices. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include an ON/OFF switch on the device of Klaitman which would have two (a multiple-more than one) illumination settings: ON and OFF.

Klaitman discloses the branch comprises flexible plastic [column 4, line 50] material that may be deformed to a bent position and retains the bent position.

Klaitman does not disclose that the illumination means are LEDs covered by a lens. However, LEDs are well known and widely used in the art and have the advantages of being inexpensive, long lasting and using little power. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use LEDs in the device of Klaitman in order to make an inexpensive produce which will be power-wise efficient and long lasting. It is well known to use a lens to protect a light source. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use lenses to cover the LEDs in the device of Klaitman in order to protect the light sources.

Allowable Subject Matter

Claims 4, 6-8, 10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15 and 18-23 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Prior art fails to show or suggest a light comprising a body having a hollow core holding a power source, a plurality of elongated flexible branches attached at a first end to the body and spaced around the periphery of the body, illuminating means mounted to the second end of the branch, an electrical circuit and a switch wherein the switch is contained in a recess formed in the body base member.

Prior art fails to show or suggest a light comprising a body having a hollow core holding a power source, a plurality of elongated flexible branches attached at a first end to the body and spaced around the periphery of the body, illuminating means mounted to the second end of the branch, an electrical circuit and a switch wherein the switch is configured for a low and high illumination setting.

Prior art fails to show or suggest a light comprising a body having a hollow core holding a power source, a plurality of elongated flexible branches attached at a first end to the body and spaced apart, illuminating means mounted to the second end of the branch, an electrical circuit and a switch wherein the body further comprises openings formed therein.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to laura tso whose telephone number is 571-272-2385. The examiner can normally be reached on Monday and Tuesday 8:00-1:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, sandra o'shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


LAURA K. TSO
PRIMARY EXAMINER